



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

August 12, 2014  
1407-VU-01  
Exhibit 1

**Petition Number:** 1407-VU-01

**Subject Site Address:** 1030 E. 169<sup>th</sup> Street (the "Property")

**Petitioner:** John Laughlin, Jr. (the "Petitioner")

**Request:** The petitioner is requesting a Variance of Use to the Westfield-Washington Township Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 1030 E. 169<sup>th</sup> Street, Westfield, Indiana 46074. The request is to allow auto sales in the Enclosed Industrial (EI) District (WC 16.04.060).

**Current Zoning:** EI (Enclosed Industrial) District

**Current Land Use:** Office / Auto Repair Garage

**Approximate Acreage:** 1.77 acres +/-

**Exhibits:**

1. Staff Report
2. Aerial Location Map
3. Existing Conditions Exhibit
4. Petitioner's Statement of Intent
5. Petitioner's Site Plans

**Staff Reviewer:** Jeffrey M. Lauer, Associate Planner

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**Petition History**

This petition is scheduled to receive a public hearing at the August 12, 2014, Board of Zoning Appeals (the "BZA") meeting.

If the Board of Zoning Appeals approves the requested Variance of Use, then the use and site would be required to obtain Development Plan approval by the Plan Commission.

**Analysis**

Location: The Property is 1.77 acres +/- in size and located on the northwest corner of Westfield Park Road and 169<sup>th</sup> Street (see Exhibit 2). The Property is zoned EI (Enclosed Industrial) District.



The Property is improved with a single commercial structure (see Exhibit 3). The surrounding properties are all zoned EI or OI (Open Industrial) Districts and include commercial/industrial activities.

Land Use: As summarized in Exhibit 4 (the Petitioner's "Statement of Intent"), the Petitioner is requesting a Variance of Use to allow auto sales, for the purpose of displaying and selling automobiles.

As shown in Exhibit 4 (the Petitioner's "Site Plan"), the Petitioner is proposing to use the existing structure and not proposing to construct any new buildings (see Exhibit 5). The Petitioner is proposing a commissary kitchen on the eastern half of the building (which is a permitted use in the EI District) and auto storage/auto sales on the western half of the building. The proposed interior build-out will separate the proposed uses with a 2-hour firewall. As shown on the Site Plan, the automobiles displayed for sale would be located on the western portion of the parking lot, including along 169<sup>th</sup> Street. The Statement of Intent further describes the operational characteristics of the proposed use.

The Zoning Ordinance provides that the purpose of the EI District<sup>1</sup> is to accommodate "industry to conduct their operations entirely within enclosed buildings of any size."<sup>2</sup> The EI District currently permits uses that are comparable to or more intense than the proposed use, such as: Auto Parts Sales, Auto Repair Garages, Commissary and Food Catering Services, Frozen Food Stores and Lockers, Newspaper Publishing, Secondary Food Processing and Packaging, Stamping and Fabricating Metal Shops. Special Exception uses contemplated in the EI District include: general construction companies, electrical contractors, ice and coal stations, salt storage, night clubs/bars and restaurants.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Business Park"<sup>3</sup> land use classification.

The Comprehensive Plan contemplates this area will "accommodate manufacturing, research and development, processing activities, office and service uses that provide jobs and a tax base for the community." The Comprehensive Plan acknowledges that appropriate land uses in business parks are: (i) manufacturing; (ii) subordinate office, retail, and services; (iii) research and development; (iv) warehousing.

The development and implementation policies of the Comprehensive Plan for this area includes, among other policies:

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<sup>1</sup> WC § 16.04.060.B of the Zoning Ordinance.

<sup>2</sup> WC § 16.04.060.A.1

<sup>3</sup> Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).



- Reserve the Business Parks for employment-generating uses and related supporting service uses
- Locate industrial uses in those areas designated for Business Parks on the Land Use Concept Map
- Designated Business Parks should be reserved as industrial areas – only uses that are clearly subordinate to and supportive of the industrial uses should be permitted in areas set aside for industrial development
- Industrial uses that include outdoor storage or that generate other external impact should be limited to the interior of business parks
- Permit land uses other than industrial in designated business parks only when they are offices or service businesses that are subordinate or related to the industrial development, such as restaurants, automobile service stations, and day care centers
- Maintain attractive and appealing business and industrial areas through landscaping, setbacks, and building design
- Establish performance standards for industries. These standards include but are not limited to noise, glare, vibration, air quality, appearance, odor, and hours of operation.

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### **Procedural**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration to grant a Variance of Use. This petition is scheduled to receive its public hearing at the August 12, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

**Findings of Fact:** A Variance of Use may be approved under Indiana Code § 36-7-4-918.4 and the Westfield-Washington Township Zoning Ordinance (WC) § 16.04.170(E)(2) only upon a determination that:

1. *The use will not be injurious to the public health, safety, morals, and general welfare of the community:*

**Finding:** It is unlikely that approving the requested Variance of Use would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is consistent with the surrounding industrial/commercial character of the area and compatible with existing permitted uses in the EI District, e.g., Auto Storage and Auto Repair Garages. The use and property will otherwise comply with or exceed the applicable standards of the EI (Enclosed Industrial) District.



2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

**Finding:** It is unlikely the use and value of adjacent properties will be affected in a substantially adverse manner. The proposed Variance of Use should not have a negative impact on surrounding properties because: (i) the use is utilizing existing improvements which are consistent with and compatible with the character of the surrounding area; (ii) the operation and design of the use are intended to mitigate the impact on surrounding properties; (iii) the use is compatible with other permitted uses of the EI (Enclosed Industrial) District.

3. *The need for the variance arises from some condition particular to the property involved:*

**Finding:** The Zoning Ordinance does not allow "Auto Sales, New or Used, Service and Repair" within the EI (Enclosed Industrial) District. However, more intense and other automobile-related uses (e.g., Auto Parts sales, Auto Rental, Auto Repair Garages, and Auto storage) are permitted within EI (Enclosed Industrial) District. The condition of this property is peculiar in that it functions as an infill property surrounded by the existing industrial park and industrially zoned properties. Thus, the use is compatible with permitted industrial uses and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:*

**Finding:** Strict adherence to the Zoning Ordinance would allow more intense and related uses (e.g., Auto Rental, Auto Repair Garages, and Auto Parts sales); however, would not permit the reasonably related "Auto Sales, New or Used, Service and Repair" use.

5. *Does not interfere substantially with the comprehensive plan:*

**Finding:** The Westfield-Washington Township Comprehensive Plan identifies this property within the "Business Park" land use classification. As such, the proposed use is consistent with the Comprehensive Plan's policies and objectives for these land use classifications and does not interfere substantially with the Comprehensive Plan.

The Board of Zoning Appeals shall approve, approve with conditions, or deny conditional uses from the requirements of the Zoning Ordinance. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval.



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**Recommendation**

The Department recommends approving 1407-VU-01 based on the findings of this Department Report with the following conditions:

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to approval of an Improvement Location Permit for the Property.
2. The "Auto Sales" use shall be limited in scope and operation to the Petitioner's Statement of Intent and Site Plan, attached hereto and incorporated herein as Exhibit 4 and Exhibit 5, respectively. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.
3. The Auto Sales, New and Used, Service and Repair use shall be developed and operated in substantial compliance to the Petitioner's Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans.